

REMARKS

Claims 1-11 constitute the pending claims in the present application. Applicants respectfully request reconsideration in view of the following remarks. Amendments presented in this response are made solely to expedite prosecution of the claims in the present application. Applicants reserve the right to prosecute claims of similar or differing scope in subsequent applications. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

Claim objection. Claims 1-11 are objected to as containing non-elected subject matter. The Office Action states that the claims lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The Office Action further states that the compounds defined in the claims lack a significant structural element because the indole core is known.

Applicants have amended claim 1 such that X is CH₂; R² is carboxy; R³ is hydrogen, optionally substituted alkyl, optionally substituted alkenyl, optionally substituted alkynyl; R⁴ is a group NHSO₂R¹⁵ where R¹⁵ is optionally substituted alkyl or optionally substituted aryl; R⁵, R⁶, and R⁷ are independently selected from hydrogen or an optionally substituted hydrocarbonyl group. Claim 8 has been limited to process (a) and R²² is SO₂R¹⁵.

With regard to limiting R¹ to phenyl rather than aryl in claim 1, and limiting "leaving group" to chloride, bromide, iodide, mesylate, and tosylate in claim 8, Applicants assert that, pursuant to MPEP 809, "should any linking claim be allowed, the restriction requirement must be withdrawn. Any claims directed to the nonelected inventions... must be rejoined and will be fully examined for patentability." Applicants therefore have made no amendments to further restrict the scope of R¹ and leaving group as requested by the Examiner.

Rejection under 35 U.S.C. 112, first paragraph. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, for containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Office Action states that the specification fails to provide sufficient support for one skilled in the art to use the claimed invention without undue experimentation. Applicants point out that, as the Examiner acknowledges, the level of ordinary skill in the art is high. Applicants assert that one of skill in the art would be in a position to assess whether the method of claim 10 would be appropriate for treating a subject with a given set of symptoms, based upon the understanding in the art at the time of filing of the factors at a cellular level that give rise to disease states. Furthermore, Applicants point out that claims of this general type have been allowed. See, for example, U.S. Patent 6,441,004.

Rejection under 35 U.S.C. 112, second paragraph. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Office Action requests clarification of the phrase “such group”, as it is unclear what atoms or moieties are included in “such group”. Applicants have replaced the phrase “such group” with “group R¹⁵”. Accordingly, Applicants submit that the rejection is moot. Applicants respectfully request reconsideration and withdrawal of this rejection.

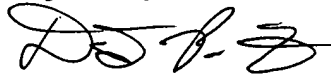
CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

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Respectfully Submitted,



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